

ESTTA Tracking number: **ESTTA744191**Filing date: **05/04/2016**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	LIQUOR MANAGEMENT, LLC		
Entity	limited liability company	Citizenship	Florida
Address	910 NW 10th Place Fort Lauderdale, FL 33311 UNITED STATES		

Attorney information	Stewart L. Gitler WELSH FLAXMAN & GITLER LLC 2000 Duke Street Suite 100 Alexandria, VA 22314 UNITED STATES mail@iplawsolutions.com, gitler@iplawsolutions.com Phone:703-920-1122
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Registration Subject to Cancellation

Registration No	4010733	Registration date	08/16/2011
Registrant	BUY RITE, INC. 5346 PIKE PLAZA RD. INDIANPOLIS, IN 46254 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2006/10/00 First Use In Commerce: 2006/10/00
All goods and services in the class are cancelled, namely: retail wine, beer and liquor store services

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CROWN LIQUORS		
Goods/Services	WINE, LIQUOR, and SPIRITS retail store services		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CROWN Wines & Spirits		

Goods/Services	WINE, LIQUOR, SPIRITS and GOURMET food retail store services		
U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CROWN wines.spirits.gourmet		
Goods/Services	WINE, LIQUOR, SPIRITS and GOURMET food retail store services		

Attachments	20160504111459.pdf(2379758 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Stewart L Gitler/
Name	Stewart L Gitler
Date	05/04/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

LIQUOR MANAGEMENT, LLC

Petitioner

v.

BUY RITE, INC. DBA CROWN LIQUORS

Respondent (Registrant)

)
)
)
) Cancellation No. _____
)
) Reg. No. 4,010,733
)
) Issued: August 16, 2011
)
)
)

**PETITION FOR CANCELLATION
UNDER 37 CFR §2.101(b)**

Commissioner for Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Trademark Trial and Appeal Board

Sir:

Petitioner, **LIQUOR MANAGEMENT, LLC**, a limited liability company organized in Florida located at 910 NW 10th Place, Fort Lauderdale, FL 33311, believes that it is, and will continue to be, damaged by Reg. No. 4,010,733, “CROWN LIQUORS Since 1989 and design”, and consequently moves to cancel same. As grounds for its cancellation, Petitioner alleges that, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other means:

Registration No. 4,010,733, held by Respondent (Registrant) is based upon application Serial No. 77/065,195, filed December 15, 2006. The registration is directed to the mark, “CROWN LIQUORS Since 1989 and design”, as applied to “beer and liquor store services” in International

Class 35. The registration alleges that the mark was first used anywhere and in commerce October 2006 and the mark was first used anywhere in a different form other than that sought to be registered at least as early as January 1, 1996, and the Respondent (Registrant) is **BUY RITE, INC. DBA CROWN LIQUORS** of 5346 Pike Plaza Rd., Indianapolis, Indiana 46254, a corporation of Indiana and adopted and used the mark “CROWN liquors” at least as early as June 8th 1965.

GROUND FOR CANCELLATION

1. Petitioner owns a long established, nationally known chain of Wine, Liquor, Spirit and Gourmet food brick and mortar retail stores, named “CROWN Liquors” and “CROWN Wines & Spirits” and also owns a website and online store named “CROWN wines.spirits.gourmet”. The brick and mortar retail liquor store services are provided to customers at numerous locations in the Southeast, and the online web store provides services through www.crownwineandspirits.com nationwide.

2. Petitioner purchased the entire goodwill and entire business operations of Crown Liquors of Broward, Inc. (“Predecessor”) on January 13, 2015 who had originally selected and began using the Service mark “CROWN Liquors” in commerce and anywhere in association with its services substantially identified in numbered paragraph 1 since at least as early as June 8th, 1965.

3. Petitioner and its Predecessor has continuously used the name “CROWN liquors”; “CROWN Wines & Spirits” or “CROWN Wines.Spirits.Gourmet” in interstate commerce in association with its services from June 8th, 1965 to date.

5. Petitioner's first used common law Service marks, "CROWN Liquors" , and presently, "CROWN Wines & Spirits" or "CROWN wines.spirits.gourmet", and Respondent's (Registrant's) registered mark, "CROWN LIQUORS Since 1989 and design", are applied to identical services, and pass through related channels of trade, to reach the same consumers. Hence, such usage by Respondent is likely to cause confusion, or to cause mistake, or to deceive prospective purchasers regarding the source of the services.

6. Petitioner through its Predecessor used the "CROWN Liquors" name and Service mark in interstate commerce before Respondent's alleged priority dates of first use anywhere and in commerce of October 2006 and was first use anywhere in a different form other than that sought to be registered at least as early as January 1, 1996, and any first use date that may be alleged by Respondent.

7. Respondent's "CROWN LIQUORS Since 1989 and design" mark is similar in sight, sound, appearance, connotation, and overall commercial impression to Petitioner's "CROWN Liquors" name and Service mark.

8. The services identified in Registration No. 4,010,733 are identical and/or closely related to those offered and provided by Petitioner under its "CROWN Liquors" Service mark, and the marks "CROWN Wines & Spirits" or "CROWN wines.spirits.gourmet".

9. Respondent's "CROWN LIQUORS Since 1989 and design" mark so resembles Petitioner's prior used, "CROWN Liquors" name and Service mark, as to be likely, when applied to

Respondent's services, to cause confusion, to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. §1052(d).

10. Through extensive use and promotion, Petitioner's "CROWN Liquors" name and Service and its "CROWN Wines & Spirits" or "CROWN wines.spirits.gourmet" name and Service marks, have gained recognition in the Southeast United States and nationwide and is famous as defined under Section 43(c)(1) of the Lanham Act, as amended, 15 U.S.C. §1125(c)(1).

11. Petitioner's "CROWN Liquors" name and Service mark became famous before Respondent's alleged first use in commerce of October 2006 and the mark was first use anywhere in a different form other than that sought to be registered at least as early as January 1, 1996, and any first use date that may be alleged by Respondent.

12. Respondent's "CROWN LIQUORS Since 1989 and design mark" so resembles Petitioner's "CROWN Liquors" name and Service mark, and the "CROWN Wines & Spirits" and/or the "CROWN Wines.Spirits.Gourmet" name and Service marks, that it is likely to dilute the distinctive quality of Petitioner's name and Service marks under Section 43(c) of the Lanham Act, as amended, 15 U.S.C. §1125(c).


RELIEF SOUGHT

WHEREFORE, Petitioner believes it is being and will continue to be damaged by the registration of the "CROWN LIQUORS Since 1989 and design" mark shown in Registration No. 4,010,733, and respectfully requests that the Petition for Cancellation be sustained, and that the registration be cancelled.

A filing fee has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge the deficiency to Deposit Account No. 01-2221.

Respectfully submitted,

LIQUOR MANAGEMENT, LLC

by: 

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Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing PETITION FOR CANCELLATION UNDER 37 CFR §2.101(b) was served on May 4th, 2016 by first-class mail, postage prepaid, to

Registrant at the following address of record:

Kimberly Gambrel
Dinsmore & Shohl LLP
1 South Main Street
Suite 1300
Dayton, Ohio 45402-2035

Date: May 4th, 2016

By: Stewart L. Gitler
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